required, as violations of personal rights are seldom acts of such a continuing nature as are properly the subjects of an injunction. Supposing, however, that such a continuing tortious act, likely to inflict irreparable injury, does clearly appear as it did in the case of *Monson* v. *Tussauds*, *supra*, it would seem desirable, at first sight, that an injunction should be issued, if it possibly can be. The impossibility, unlawfulness, or even impropriety of the courts thus spontaneously extending their equitable jurisdiction, would not seem to be beyond dispute. The fact that a libel is a crime, as well as a tort to an individual, would not apparently prevent equity from interfering to prevent it. Nor would the necessity of trying the question of the existence of the libel by a jury appear to prevent equity from furnishing relief of the peculiar nature that equity alone can give, when the particular circumstances might require it. There is no reason, however, to suppose that American courts of equity will soon, or indeed ever, unless by the aid of statutes, make such an innovation as to interfere for the protection of any but property rights.

CONTRADICTION OF DYING DECLARATIONS. — The recognized exceptions to the rule against hearsay rest on precedent rather than reason. According as judges are influenced chiefly by intimate knowledge of the history of the law of evidence, or by the desire to apply its principles on a basis of rationality which the authorities themselves do not warrant, these exceptions contract or expand in their application in various jurisdictions. But the tendency to restrict the scope of the exception known as "Dying Declarations" has been practically universal. Apparently the original reason for admitting this species of evidence lay in the belief that the solemn occasion of death furnished a guaranty of truth equal to an oath in court. To-day the exception is strictly limited to cases of the deceased's statements concerning the homicide which forms the subject of the charge, and the declarant must have realized himself beyond hope of life. Whether the modern strict application is due to the fact that the position of one *in articulo mortis* is no longer regarded with the same awe as formerly perhaps deserves consideration. Certain it is that the reason usually assigned for this exception at present is rather the necessity which requires this evidence to convict murderers against whom, from the nature of the crime, other testimony is often lacking, than any intrinsic value in what is said in anticipation of death.

In light of the foregoing considerations, the decision of the Supreme Court in *Carver* v. *United States*, 17 Sup. Ct. Rep. 228, is eminently satisfactory. It was there held that statements, themselves not admissible under any of the exceptions to the hearsay rule, might come in to impeach a dying declaration already admitted. The only possible exception that could be taken to this decision is, that it ignores the generally adopted rule that, in order to impeach the testimony of a witness by proof of previous contradictory statements, the witness must first be asked whether he made such statements. It is submitted that this objection is not a valid one. The rule ignored is one of practice rather than of evidence, and on principle should not be extended to the case of dying declarations. The necessity which requires the admission of the hearsay would seem to involve the abrogation of the rule that the witness be given a chance to explain or deny. In other words, if one exception be made, it is only fair to make a second. The argument to the contrary

amounts to this: because the party against whom the declaration operates by its admission has lost his right of cross-examination, he must also lose his right of impeaching the evidence; a rule pertaining to cross-examination is to be applied when cross-examination is impossible. The reasoning is fallacious, and is not sustained by the authorities. *State* v. *Lodge*, 33 Atl. Rep. 312 (Del.); *Battle* v. *State*, 74 Ga. 101; *People* v. *Lawrence*, 21 Cal. 368. The position taken in 9 HARVARD LAW REVIEW, 472, seems, on the whole, untenable.

MUST AN INNKEEPER ENTERTAIN ONE WHO IS NOT A TRAVELLER? — Apparently by the common law an innkeeper is compelled to receive and entertain as guests only those who are entitled to be called travellers. See Wandell on the Law of Inns, pp. 46–48, 55–58. Thus, in a leading English case, *Rex* v. *Luellin*, 12 Mod. 445, decided nearly two hundred years ago, an indictment for refusing to receive a person as a guest at an inn was quashed because there was no statement in it that the person desiring entertainment was a traveller. In a very recent English decision, *Lamond* v. *Richards*, reported and commented on in 32 Law Journal (Eng.), 56, 90, the plaintiff, who had stayed for several months at the defendant's hotel, went out for a short time, and on her return was refused admittance. It appeared that she had already received notice to leave, but she stated in court that it was her intention to remain at the hotel until it burned down. The court held that, the plaintiff having ceased to be a traveller, the defendant was therefore entitled, after giving reasonable notice, to eject her. The mere fact that she had been at the hotel for some length of time would not of itself disentitle her to the character of traveller. 2 Parsons on Contracts, 8th ed., 160. But there can be no doubt under all the circumstances of the case, that she had fully determined to make the hotel her permanent abode, and the court was amply justified, accordingly, in reaching the conclusion that she had no right to a traveller's privileges. The case under discussion involves, therefore, a decision of the very interesting question as to whether the innkeeper's obligation shall be so extended as to compel him to entertain for an indefinite period a person who, although he entered the hotel as a traveller, has now ceased to hold that character. Apparently there is no authority for such a proposition, and as the burdens resting upon innkeepers are already very severe, it seems hardly probable that the Court of Appeal, to which the case of *Lamond* v. *Richards* has been referred, will increase them in the direction indicated by the plaintiff's contention.

DOES AN ACTION LIE FOR PREVENTING THE ENFORCEMENT OF A DECREE? — A recent New York decision seems to show pretty plainly that one should not induce or aid a third party to commit a breach of legal duty to another, unless he wishes to answer the injured party in an action at law. The court decided in this case, *Hoefler* v. *Hoefler*, 42 N. Y. Supp. 1035, that an action similar to an action on the case at common law will lie by a wife, in whose favor alimony has been decreed pending divorce proceedings against one who has induced and aided the husband to leave the State in order to avoid the payment of the alimony. The same result was reached in the old case of *Smith* v. *Tonstall*, Carthew, 3, where